

AMENDED IN SENATE AUGUST 22, 2005

AMENDED IN ASSEMBLY MAY 26, 2005

AMENDED IN ASSEMBLY APRIL 21, 2005

CALIFORNIA LEGISLATURE—2005–06 REGULAR SESSION

ASSEMBLY BILL

No. 401

Introduced by Assembly ~~Members De La Torre and Goldberg~~
Member Levine

February 15, 2005

An act to ~~add Section 60049 to the Education Code, relating to instructional materials; amend Section 2827.10 of the Public Utilities Code, relating to energy.~~

LEGISLATIVE COUNSEL'S DIGEST

AB 401, as amended, ~~De La Torre Levine. Supplementary instructional materials: English language learners. Fuel cell customer-generators.~~

Existing law, the Budget Act of 2004, provides \$30,000,000 on a one-time basis to provide supplemental instructional materials specifically for English language learners in kindergarten and grades 1 to 12, inclusive, as prescribed. The Budget Act of 2004 requires that those funds be available for encumbrance by local education agencies until June 30, 2006.

This bill would require the Superintendent of Public Instruction to allocate funding to school districts, without regard to encumbrance by a specified date, to provide supplementary instructional materials specifically for English language learners in kindergarten and grades 1 to 12, inclusive, for the purpose of accelerating those pupils as rapidly as possibly toward grade level proficiency. The bill would require that

~~the supplementary instructional materials be designed to help English language learners become proficient in reading, writing, and speaking English and would authorize their use only in addition to the standards-aligned materials adopted by the State Board of Education under existing law. The bill would require the State Department of Education to develop a correlation matrix that is to be used to determine if the supplementary instructional materials correlate to the standards adopted by the board and would provide requirements relating to the certification of that correlation by participating school districts.~~

~~The bill would make implementation of these provisions contingent on funding being appropriated for that purpose in the annual Budget Act.~~

(1) Existing law, until January 1, 2006, requires every electrical corporation, as defined, to file with the Public Utilities Commission a standard tariff to provide for net energy metering, as defined, for eligible fuel cell customer-generators, as defined, until the total cumulative rated generating capacity used by the eligible fuel cell customer-generators equals 45 megawatts within the service territory of the electrical corporation for an electrical corporation with a peak demand above 10,000 megawatts, or equals 22.5 megawatts within the service territory of the electrical corporation for an electrical corporation with a peak demand of 10,000 megawatts or below. The bill would prohibit the combined statewide cumulative rated generating capacity used by the eligible fuel cell customer-generators in the service territories of all electrical corporations from exceeding 112.5 megawatts.

This bill would remove the January 1, 2006, repeal date, thereby making that tariff requirement operative indefinitely. Under the bill, a fuel cell electrical generating facility, as defined, would not be eligible for participation in the tariff unless it commenced operation before January 1, 2010, and a fuel cell customer-generator would be eligible for the tariff only for the operating life of the eligible fuel cell electrical generating facility. Because a violation of these provisions is a crime under existing law, this bill, by changing the definition of a crime, would impose a state-mandated local program.

(2) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: ~~no~~-yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 2827.10 of the Public Utilities Code, as
2 added by Section 2 of Chapter 661 of the Statutes of 2003, is
3 amended to read:

4 2827.10. (a) As used in this section, the following terms have
5 the following meanings:

6 (1) “Electrical corporation” means an electrical corporation, as
7 defined in Section 218.

8 (2) “Eligible fuel cell electrical generating facility” means a
9 facility that includes the following:

10 (A) Integrated powerplant systems containing a stack, tubular
11 array, or other functionally similar configuration used to
12 electrochemically convert fuel to electric energy.

13 (B) An inverter and fuel processing system where necessary.

14 (C) Other plant equipment, including heat recovery
15 equipment, necessary to support the plant’s operation or its
16 energy conversion.

17 (3) “Eligible fuel cell customer-generator” means a customer
18 of an electrical corporation that meets all the following criteria:

19 (A) Uses a fuel cell electrical generating facility with a
20 capacity of not more than one megawatt that is located on or
21 adjacent to the customer’s owned, leased, or rented premises, is
22 interconnected and operates in parallel with the electric grid
23 while the grid is operational or in a grid independent mode when
24 the grid is nonoperational, and is sized to offset part or all of the
25 eligible fuel cell customer-generator’s own electrical
26 requirements.

27 (B) Is the recipient of local, state, or federal funds, or who
28 self-finances projects designed to encourage the development of
29 eligible fuel cell electrical generating facilities.

30 (C) Uses technology that meets the definition of an
31 “ultra-clean and low-emission distributed generation” in
32 subdivision (a) of Section 353.2.

1 (4) “Net energy metering” has the same meaning as that term
2 is defined in Section 2827.9.

3 (b) Every electrical corporation shall, not later than March 1,
4 2004, file with the commission a standard tariff providing for net
5 energy metering for eligible fuel cell customer-generators,
6 consistent with this section. Every electrical corporation shall
7 make this tariff available to eligible fuel cell customer-generators
8 upon request, on a first-come-first-served basis, until the total
9 cumulative rated generating capacity used by the eligible fuel cell
10 customer-generators equals 45 megawatts within the service
11 territory of the electrical corporation for an electrical corporation
12 with a peak demand above 10,000 megawatts, or equals 22.5
13 megawatts within the service territory of the electrical
14 corporation for an electrical corporation with a peak demand of
15 10,000 megawatts or below. The combined statewide cumulative
16 rated generating capacity used by the eligible fuel cell
17 customer-generators in the service territories of all electrical
18 corporations in the state may not exceed 112.5 megawatts.

19 (c) In determining the eligibility for the cumulative rated
20 generating capacity within an electrical service area, preference
21 shall be given to facilities which, at the time of installation, are
22 located in a community with significant exposure to air
23 contaminants or localized air contaminants, or both, including,
24 but not limited to, communities of minority populations or
25 low-income populations, or both, based on the ambient air
26 quality standards established pursuant to Section 39607 of the
27 Health and Safety Code.

28 (d) Each net energy metering contract or tariff shall be
29 identical, with respect to rate structure, all retail rate components,
30 and any monthly charges, to the contract or tariff to which the
31 customer would be assigned if the customer was not an eligible
32 fuel cell customer-generator. Any new or additional demand
33 charge, standby charge, customer charge, minimum monthly
34 charge, interconnection charge, or other charge that would
35 increase an eligible fuel cell customer-generator’s costs beyond
36 those of other customers in the rate class to which the eligible
37 fuel cell customer-generator would otherwise be assigned are
38 contrary to the intent of the Legislature in enacting the act adding
39 this section, and may not form a part of net energy metering
40 tariffs.

1 (e) The net metering calculation shall be carried out in
2 accordance with Section 2827.9.

3 ~~(f) This section shall remain in effect only until January 1,~~
4 ~~2006, and as of that date is repealed, unless a later enacted~~
5 ~~statute, that is enacted before January 1, 2006, deletes or extends~~
6 ~~that date.~~

7 *(f) A fuel cell electrical generating facility shall not be eligible*
8 *for participation in the tariff established pursuant to this section*
9 *unless it commenced operation before January 1, 2010. A fuel*
10 *cell customer-generator shall be eligible for the tariff established*
11 *pursuant to this section only for the operating life of the eligible*
12 *fuel cell electrical generating facility.*

13 *SEC. 2. No reimbursement is required by this act pursuant to*
14 *Section 6 of Article XIII B of the California Constitution because*
15 *the only costs that may be incurred by a local agency or school*
16 *district will be incurred because this act creates a new crime or*
17 *infraction, eliminates a crime or infraction, or changes the*
18 *penalty for a crime or infraction, within the meaning of Section*
19 *17556 of the Government Code, or changes the definition of a*
20 *crime within the meaning of Section 6 of Article XIII B of the*
21 *California Constitution.*

22 ~~SECTION 1. Section 60049 is added to the Education Code,~~
23 ~~to read:~~

24 ~~60049. (a) The Superintendent shall allocate funding to~~
25 ~~school districts to provide supplementary instructional materials~~
26 ~~specifically for English language learners in kindergarten and~~
27 ~~grades 1 to 12, inclusive, for the purpose of accelerating those~~
28 ~~pupils as rapidly as possible toward grade level proficiency. The~~
29 ~~supplementary instructional materials shall be designed to help~~
30 ~~English language learners become proficient in reading, writing,~~
31 ~~and speaking English and may only be used in addition to the~~
32 ~~standards-aligned materials adopted by the state board pursuant~~
33 ~~to Section 60605.~~

34 ~~(b) A school district shall be eligible for funding of up to~~
35 ~~twenty-five dollars (\$25) per pupil, based on the most recently~~
36 ~~certified language census number of English language learners in~~
37 ~~kindergarten and grades 1 to 12, inclusive, to purchase any~~
38 ~~supplementary instructional materials that the department verifies~~
39 ~~and the state board approves as being substantially correlated to~~

1 identified state standards adopted pursuant to Section 60811, as
2 applied in the standards adopted pursuant to Section 60605.

3 (e) The department shall develop a correlation matrix that
4 shall be used to determine if the supplementary instructional
5 materials correlate to the standards adopted by the state board.
6 The contents of the matrix shall be divided into the English
7 language development levels of proficiency such as, beginning,
8 intermediate, and advanced and indicate the manner in which the
9 English language development standards will be used to provide
10 a path to obtaining grade level skills in reading, writing, and
11 speaking. The department shall assign individuals with
12 demonstrated expertise in English language development and the
13 education of English language learners to develop the correlation
14 matrix. The department shall not assign the development of the
15 correlation matrix to the Curriculum Development and
16 Supplemental Materials Commission established pursuant to
17 Section 33530.

18 (d) Prior to the submission of the supplementary instructional
19 materials to the department for verification that the materials
20 correlate to identified standards, publishers shall submit
21 standards maps to the department and any requesting school
22 district so that the department and the school district can
23 determine the extent to which each item, if purchased separately,
24 or as a set of supplementary instructional materials for English
25 language learners is correlated to the standards adopted by the
26 state board. The standards maps shall be filled out using the most
27 recent format approved by the department. The contents for the
28 standards map shall be the correlation matrix as described in
29 subdivision (c).

30 (e) The supplementary instructional materials that are found to
31 be aligned to the matrix shall not be required to be resubmitted in
32 subsequent years.

33 (f) The supplementary instructional materials may address one
34 or all four domains of language, including listening, speaking,
35 reading or writing.

36 (g) As a condition of receipt of funds pursuant to this section,
37 a school district that elects to participate shall do both of the
38 following:

39 (1) Submit an intent to purchase, specifying the title,
40 international standards book number (ISBN), grade levels, type,

1 ~~and publisher of the supplementary instructional materials the~~
2 ~~district intends to purchase, and the number of pupils for which~~
3 ~~the supplementary instructional materials will be purchased.~~

4 ~~(2) Certify that the supplementary instructional materials the~~
5 ~~district intends to purchase are substantially correlated to support~~
6 ~~the identified state standards and adopted materials, and shall~~
7 ~~submit this certification to the department.~~

8 ~~(h) A school district may use the funds received pursuant to~~
9 ~~this section for one or more grades that the district determines~~
10 ~~will best help pupils most in need.~~

11 ~~(i) After a school district notifies the department that it intends~~
12 ~~to purchase supplementary instructional materials, the~~
13 ~~department may select and train panels of teachers and educators~~
14 ~~to verify the standards maps provided by the publishers and~~
15 ~~examine the materials for legal and social compliance. The~~
16 ~~department shall provide an appeals process to allow due process~~
17 ~~review of discrepancies of findings in the verification process.~~

18 ~~SEC. 2. Implementation of Section 60049 of the Education~~
19 ~~Code is contingent on funding being appropriated for that~~
20 ~~purpose in the annual Budget Act.~~